IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
Judge's Order No.125 of 2007
In
Execution Application No.41 of 2006
In
Chamber Summons No.97 of 2006
In
Summary Suit No.1094 of 2005

Jayesh Jayantilal & Co. .. .. Plaintiffs
v/s.
Khushal Hansraj Gala. .. .. Defendant
a n d
1. Jigar K. Gala
2. Smt.Jasuben K. Gala. .. .. Respondents

Mr.P.N.Gunwani with Mr.M.S.Deltivi i/by S.N. Shah for Plaintiffs.

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**CORAM : SMT.R.S. DALVI, J.**

**DATED : 21st March, 2007**

**P.C. :**

1. The Plaintiffs have obtained a decree on 22.11.2005, which they have sought to execute. The Defendant has sought to transfer the suit property to the Respondents who are the wife and son of the Defendant. The transfer of the Respondents by way of the gift and sale is seen to be sham. The Respondents have been directed not to dispose of or create third party rights in the suit premises, pending execution of the decree by warrant of attachment and sale to be issued by the Court. The restraint upon the Respondents is to continue until 5th June 2007. In the meantime,

the Plaintiffs are to proceed in execution.

2. It is contended on behalf of the Plaintiffs that the decree is not sealed and that the procedure takes a very long time even after obtaining a certified copy of the decree. Since rights of the parties in respect of the suit premises of the Defendant, who is sought to be an agent and sold in execution, have already been adjudicated upon and stay against transfer granted in favour of the plaintiffs and against the Respondents, who claim interest in the suit premises, the Plaintiffs have applied for allowing execution to proceed before sealing of the decree under the provisions of Rule 314 of the Bombay High Court (Original Side) Rules.

3. In view of the above facts, the Judge’s Order is signed.

**(Smt.R.S. Dalvi, J.)**